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August 11, 2023

VIA ECF

Hon. Paul G. Gardephe
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Trump v. Simon & Schuster, et al.*, Case No. 1:23-cv-06883 (PGG)

Hon. Gardephe:

We represent Defendants in the above-referenced matter, and are writing (i) to provide the Court with notice that we will submit courtesy copies of Defendants' fully-briefed Rule 12(b)(6) motion to dismiss, which is now before Your Honor, and (ii) to respectfully request oral argument on the motion.

By way of background, on January 1, 2023, former-President Trump filed a complaint against Bob Woodward, Paramount Global, and Simon & Schuster related to *The Trump Tapes*, an audio and print book published by Simon & Schuster that presents 20 interviews that Woodward conducted with President Trump, plus extensive commentary on those interviews. In the complaint, as amended, Former-President Trump seeks a declaratory judgment that he is the copyright owner of the taped interviews pursuant to the Declaratory Judgment Act and an accounting of the profits, along with various state law claims.

In response, Defendants filed a motion to dismiss or transfer for improper venue and a motion to dismiss for failure to state a claim pursuant to F.R.C.P. 12(b)(6). On August 4, 2023, Hon. Rodgers in the Northern District of Florida granted Defendants' motion to transfer. *See Trump v. Simon & Schuster, et al*, 3:23-cv-02333-MCR-ZCB (N.D. FL), ECF 48. This case was subsequently transferred to the Southern District of New York, and the motion to dismiss for failure to state a claim is pending before Your Honor. *See id.* at 23 ("The Clerk is directed to transfer this case to the United States District Court for the Southern District of New York... The Defendants' separately-filed Rule 12(b)(6) motion to dismiss for failure to state a claim (ECF No. 38) will carry with the case for resolution by the transferee court.").

Pursuant to Your Individual Rules, we will be delivering a courtesy copy of the filings to the Court. The submitted copies will include Plaintiff's Amended Complaint, Defendants' 12(b)(6) motion to dismiss, Plaintiff's opposition brief, and Defendants' reply brief, as well as the accompanying declarations and exhibits.

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In addition, because Former-President Trump's complaint and opposition papers ask this Court to make unprecedented applications of settled law, Defendants respectfully request oral argument for the motion.

Respectfully admitted,



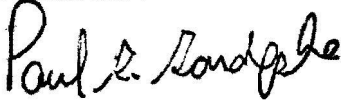
Elizabeth A. McNamara

cc: Opposing Counsel via ECF

MEMO ENDORSED:

Defendants will amend their motion to dismiss for failure to state a claim – previously filed in the Northern District of Florida (Dkt. No. 38) – to address Second Circuit authority, and refile any such motion by **August 23, 2023**. Plaintiff's opposition will be due by **August 30, 2023**. Any reply will be due by **September 6, 2023**. Under Rule IV(C) of this Court's Individual Rules of Practice in Civil Cases – the “bundling rule” – parties may not file motions electronically on ECF until the motion is fully briefed. The parties will amend their joint motion for a protective order (Dkt. No. 41), and Plaintiff will amend his motion to seal (Dkt. No. 42), to adhere to this Court's Individual Rules of Practice in Civil Cases, and refile any such motions by **September 6, 2023**. Defendants' request for oral argument is denied without prejudice, pending the refiling of the motion to dismiss. The Clerk of Court is directed to terminate the motions (Dkt. Nos. 38, 41, 42).

SO ORDERED.



Paul G. Gardephe
United States District Judge

Dated: August 16, 2023